

Sixth Appellate District

San Jose, California

MONDAY, OCTOBER 20, 2008

(no minute approved orders)

TUESDAY, OCTOBER 21, 2008

The following cases are submitted this date:

H032777 PEOPLE v. ERIVAN C.

H031525 PEOPLE v. EARLE

The Court met in Panelli Moot Court Courtroom, Santa Clara University, Santa Clara, California. Present: Rushing, P.J.; Premo, J.; Elia, J.; and S. Nasson, Deputy Clerk.

H030016 PEOPLE v. ZAPATA

Cause called and argued by Heather Mackay appearing for Appellant and by John Deist, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H030645 HARPER v. HARMON, et al.

Cause called and argued by Gail Harper, Appellant appearing in propria persona, and by Theodore Stalcup and Timothy Harris appearing for Respondents. Cause ordered submitted. Rushing, P.J., Premo, J. and Elia, J. leave the bench. Mihara, P.J., McAdams, J. and Duffy, J. take the bench.

H030465 PEOPLE v. VILLARREAL

Cause called and argued by Frederick Schnider appearing for Appellant and by Ann Wathen, Deputy Attorney General, appearing for Respondent. Cause ordered submitted. Court adjourns.

H032127 PEOPLE v. SHAWHAN

The judgment is modified to reflect a conviction of misdemeanor vandalism in violation of Penal Code section 594, subdivision (b)(2)(A). As so modified, the judgment is affirmed. (not published)

(Duffy, J.; We concur: Rushing, P.J., Premo, J.)

Filed October 21, 2008

H029862 PEOPLE v. PLASCENCIA

The judgment is reversed and remanded to the trial court for the limited purpose of resentencing consistently with this opinion, *Blakely, supra*, 542 U.S. 296, *Cunningham, supra*, 549 U.S. 270, *Sandoval, supra*, 41 Cal.4th 825, and *French, supra*, 43 Cal.4th 36. (not published)

(Duffy, J.; We concur: Mihara, Acting P.J., McAdams, J.)

Filed October 21, 2008

Sixth Appellate District

San Jose, California

Tuesday, October 21, 2008 (continued)

H032611 PEOPLE v. JON DAVID ANDERSON

The subject condition in the probation order is modified as follows: "Stay at least 100 yards away from victim, from any vehicle that you know to belong to victim, and from those locations that you know to be the victim's residence and place of employment." In all other respects, the judgment is affirmed.

(not published)

(Duffy, J.; We concur: Elia, Acting P.J., Bamattre-Manoukian, J.)

Filed October 21, 2008

H032154 SANTE et al. v. GARNER

The judgment is affirmed. (not published)

(Mihara, Acting P.J.; We concur: McAdams, J., Duffy, J.)

Filed October 21, 2008

H031462 IN RE THE MARRIAGE OF ANDRE AND LILIYA WILLIS

By the Court*:

Appellant Andre Willis' petition for rehearing is denied.

Filed: October 21, 2008

*Before Elia, Acting P.J., Mihara, J. and McAdams, J.

WEDNESDAY, OCTOBER 22, 2008

H030999 MANGANO v. VERITY, INC., et al.

H031234 MANGANO v. VERITY, INC., et al.

In appeal number H030999, the judgment is affirmed. In appeal number H031234, the trial court's February 13, 2007 postjudgment order awarding defendants \$20,000 in expert witness fees and denying defendants' motion for attorney's fees is affirmed. Each party is to bear its own costs on appeal.

(partial publication)

(Mihara, Acting P.J.; We concur: McAdams, J., Duffy, J.)

Filed October 22, 2008

H032366 NEWTON v. LEWIS-LAZZERI, et al.

Treating the October 2007 order as a judgment, we affirm.

(not published)

(McAdams, J.; We concur: Mihara, Acting P.J., Duffy, J.)

Filed October 22, 2008

H031727 PEOPLE v. JACK

We affirm the victim restitution order of June 18, 2008, which directs defendant to pay \$6,100 to Gene Mason. (not published)

(McAdams, J.; We concur: Mihara, Acting P.J., Duffy, J.)

Filed October 22, 2008

Sixth Appellate District

San Jose, California

Wednesday, October 22, 2008 (continued)

H033030 PEOPLE v. SCOTT, JR.

The judgment is reversed pursuant to the stipulation of the parties. Each party to bear their own attorney fees and costs on appeal. The remittitur shall issue forthwith. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed October 22, 2008

H032601 PEOPLE v. NOBLES

The judgment is affirmed. (not published)
(Duffy, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)
Filed October 22, 2008

The following case is submitted this date:

H029681 PEOPLE v. COSTA

H031334 PEOPLE v. TABOR

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)
Filed October 22, 2008

H032788 In re C.M.; DFCS v. L.P.

The appeal is dismissed as abandoned. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed October 22, 2008

H031334 PEOPLE v. TABOR

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)
Filed October 22, 2008

THURSDAY, OCTOBER 23, 2008

The following case is submitted this date:

H032292 PEOPLE v. ACUNA

H032834 PEOPLE v. JACKSON-REYNOLDS

The judgment is modified as follows: defendant's sentence on count 2 shall be six months; local conduct credits shall be 168 making the total credits amount to 507. As so modified, the judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed October 23, 2008

Sixth Appellate District

San Jose, California

Thursday, October 23, 2008 (continued)

H032717 PEOPLE v. LARA

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed October 23, 2008

H032768 PEOPLE v. E.S.

The judgment of wardship is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed October 23, 2008

H032713 In re N.W.; SANTA CRUZ COUNTY HRA v. S.S.

The appeal is dismissed as abandoned. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed October 23, 2008

H032235 PEOPLE v. GARIBAY

By the Court:

On the court's own motion, the submission order in the above-entitled matter dated September 11, 2008, is hereby vacated. The court by separate letter issued October 23, 2008, has requested supplemental briefing from the parties. The cause will be resubmitted upon completion of supplemental briefing.
Dated: October 23, 2008 Rushing, P.J.

FRIDAY, OCTOBER 24, 2008

H032318 PEOPLE v. SANCHEZ

The judgment is modified and the sentence of one year in state prison on count 4, inflicting corporal injury on a cohabitant is stayed pursuant to section 654. As so modified, the judgment is affirmed (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed October 24, 2008

H031681 PEOPLE v. JIMENEZ

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed October 24, 2008

H030824 PEOPLE v. MCFARLAND

The order is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed October 24, 2008

Sixth Appellate District

San Jose, California

Friday, October 24, 2008 (continued)

H032955 PEOPLE v. DE LA CRUZ

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed October 24, 2008

H031288 QAD INC. et al. v. SUBRAMANIAN

By the Court*:

Appellants' petition for rehearing is denied.
Filed: October 24, 2008

*Before Bamattre-Manoukian, Acting P.J., Mihara, J. and Duffy, J.

H031787 EBEY v. EBEY

By the Court*:

Appellant's petition for rehearing is denied.
It is further ordered that appellant's motion to augment the record filed in conjunction with the petition for rehearing is hereby denied.

Filed: October 24, 2008

*Before Bamattre-Manoukian, Acting P.J., Mihara, J. and McAdams, J.

H033373 ADAMS v. UNGER, et al.

By the Court:

Appellant's motion to set aside the dismissal of appeal is denied without prejudice to appellant filing a completed application for waiver of court fees and costs in this court within 7 days from the date of this order. If appellant files such application in accordance with this court's order, the dismissal order filed October 8, 2008, is set aside and the appeal shall be restored to active status.

Dated: October 24, 2008 Rushing, P.J.